

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

SHANE C. BUCZEK,

Petitioner

10-CV-383-S

v.

CONSTRUCTIVE STATUTORY TRUST
DEPOSITORY TRUST CORPORATION
DONALD F. DONAHUE
UNITED STATES MARSHALS
JOHN CLARK and BRYAN MATTEWS
UNITED STATES PROBATION
JOSEPH GIACOBBE
UNITED STATES OF AMERICA
ERIC H. HOLDER
BEHAVIORAL INTERVENTIONS
B.I. WILLIAM COOPER CFO,

Respondents.

Respondents, The Depository Trust Company (improperly named “The Depository Trust Corporation” by petitioner) and Donald F. Donahue (collectively the “DTC Respondents”), by its attorneys, Proskauer Rose LLP, for its Answer to the Petition for a Writ of Habeas Corpus (Docket No. 1) and the Amended Petition for a Writ of Habeas Corpus (Docket No. 2) (collectively, the “Petition”):

PRELIMINARY STATEMENT

The DTC Respondents do not exercise any custodial authority over petitioner and are not properly joined as respondents in this habeas corpus proceeding. The DTC Respondents hereby incorporate by reference each of the defenses contained in their

Motion to Dismiss the Petition and accompanying Memorandum of Law, filed November 18, 2010 (Docket Nos. 18 and 19).

ANSWER

1. The DTC Respondents cannot discern from the face of the Petition the nature or substance of any purported allegations made or relief sought by petitioner as against the DTC Respondents.

2. The DTC Respondents deny knowledge or information sufficient to form a belief with respect to allegations concerning petitioner and deny any allegations that the DTC Respondents have engaged in any conduct with respect to petitioner.

FIRST DEFENSE

3. The Petition fails to state a claim upon which relief may be granted as against the DTC Respondents.

SECOND DEFENSE

4. This Court lacks subject matter jurisdiction with respect to the claims asserted against the DTC Respondents under 28 U.S.C. §§ 2241, et seq.

THIRD DEFENSE

5. The Petition fails to comply with the requirements of Rule 8(a), Fed. R. Civ. P.

FOURTH DEFENSE

6. The DTC Respondents reserve the right to assert further defenses that may become known during the pendency of the Petition.

WHEREFORE, the DTC Respondents demand judgment dismissing the Petition in its entirety as against the DTC Respondents, and awarding such further relief as the Court deems just and proper.

New York, New York, December 15, 2010

Respectfully submitted,

PROSKAUER ROSE LLP

/s/Margaret A. Dale

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2010, I electronically filed the attached ANSWER TO THE PETITION FOR A WRIT OF HABEAS CORPUS AND THE AMENDED PETITION FOR A WRIT OF HABEAS CORPUS with the Clerk of the District Court using its CM/ECF system, and I mailed the foregoing, by the United States Postal Service, to the following non-CM/ECF participant:

Shane C. Buczek
Northeast Ohio Correctional Center,
2240 Hubbard Rd.
Youngstown, OH 44501

/s/Margaret A. Dale
MARGARET A. DALE